



Task Force on Court Facilities

455 Golden Gate Avenue, San Francisco, CA 94102-3660

Meeting Report

March 8, 2001

Marriott Suites Downtown

San Diego, CA

ATTENDEES:

TASK FORCE MEMBERS:

PRESENT:

Hon. Daniel J. Kremer, Chair
Mr. Greg Abel
Mr. Wylie Aitken
Ms. Yvonne Campos
Mr. John Clarke
Mr. Mike Courtney
Hon. Hector De La Torre
Hon. Gary Freeman
Mr. David Janssen
Mr. Fred Klass*
Hon. Michael Nail
Hon. Wayne Peterson**
Hon. Charles V. Smith
Mr. Anthony Tyrrell
Hon. Diane Elan Wick

*Attended part of the meeting and was present for the votes on the Phase 4 and 5 reports, but was not present for the vote on the Second Interim Report.

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ABSENT:

Hon. Joan B. Bechtel
Sheriff Robert T. Doyle
Hon. Jerry Eaves

TASK FORCE STAFF:

Mr. Robert Lloyd, Project Director,
Manager, Facilities Unit
Mr. Robert Emerson, Project Manager,
Senior Facilities Planner
Ms. Patricia Bonderud, AIA, CSI, Facilities Planner

PRESENTERS:

Mr. Jay Smith, Daniel, Mann, Johnson, & Mendenhall
Mr. Robert Lloyd, Administrative Office of the Courts

CONSULTANTS:

Ms. Tracy Barrow, AeCOM
Mr. Dan Smith, DSA/Vitetta

GUESTS:

Mr. John H. Abbott, County of Orange
Mr. Peter Conlon, Superior Court, County of Orange
Mr. Bruce Doenges, Superior Court, County of Ventura
Mr. Joseph T. Fallin, Superior Court, County of Los Angeles
Mr. Tim Fedorchak, County of Stanislaus
Mr. Rubin Lopez, California State Association of Counties
Ms. Sally Lukenbill, Department of Finance
Mr. Nick Marinovich, County of San Diego
Mr. Jack Miller, County of San Diego
Ms. Nghia Nguyen, County of Orange
Mr. Ronald G. Overholt, Administrative Office of the Courts
Mr. John Siden, County of Yolo
Mr. John Van Whervin, Superior Court, County of Los Angeles

I. OPENING REMARKS – Justice Daniel Kremer

- A) Justice Kremer opened the task force meeting at 10:10 a.m. and reviewed the meeting agenda.
- B) The task force reviewed and unanimously approved the meeting report from the January meeting in Sacramento (Meeting # 16).

II. PHASE 4 PROGRESS REPORT – Mr. Jay Smith

- A) Mr. Smith presented a progress report on the Phase 4 evaluation work noting the following:

1) To date, the reports for seven counties (Calaveras, Contra Costa, Mono, San Joaquin, San Mateo, Santa Cruz, and Stanislaus) have been revised and reissued. The consultants are in the process of revising the remaining county reports and responding to the comments received. They expect to be completed with the revision of the county reports by the end of March.

2) Progress on survey and evaluation of the appellate courts was presented as follows:

- a) The data gathered during the surveys has been entered into the database.
- b) Interviews with court administrators are underway and are expected to be completed by the end of March.

III. REVIEW OF PHASE 4 REPORT (Final Draft)– Mr. Jay Smith

- A) Justice Kremer opened the discussion of the report by presenting the following overview of the Phase 4 work.

"I would like to put the Phase IV report in context. When we began our efforts more than two years ago, I said I wanted a work product that 1) answered the questions posed to us in the legislation using our best judgment; 2) based those answers on disclosed principles and as far as possible, objective testable criteria; and 3) provided our constituents, the ultimate decision makers, with a body of information suited to informing their judgment even if they chose to reject some or all of our conclusions.

"The Phase IV report answers the question, "What new or modified court facilities are needed now and in the future, and what will they cost?" "Need," of course, is an infinitely variable concept largely in the eye of the beholder and in that sense has a thousand answers -- amounting to no answer. If "need" means simply can it function, the bar is low indeed. We have seen court held at a folding table under the shade of a minivan hatch and in a 300 square-foot basement jury courtroom with exposed pipes in the ceiling. While courts can function in such surroundings, few would argue that they should.

"If instead one asks what court facilities are needed in order to provide a dignified, efficient and safe environment for the administration of justice at a reasonable cost, we move beyond the simple question "Can it function?," but we still pose the question in inherently subjective terms that reasonable people would answer in different ways.

"Phase II and Phase IV of the task force's work attempt to quantify that more detailed standard. In Phase II's guidelines, we addressed the question what would a newly built dignified, efficient, safe and cost effective court look like. In the guidelines,

we answered that question in very concrete terms keeping two principles in mind: that the guidelines were to be a tool, not a template against which existing facilities were to be judged; and the facilities described had to be achievable at reasonable cost. In other words, we established an objective benchmark useful as a reference point for evaluating existing facilities, and eschewed any idea of describing the "Taj Mahal" court facility (if we wanted to do that, we could just adopt the federal standards). In a phrase, we did not aim at the ideal at any cost; instead we attempted to describe the achievable and desirable.

"We then used those guidelines as a tool in the evaluation of existing facilities. As you know, we did not apply them full strength but instead discounted and adjusted them in several ways, and then applied certain agreed upon principles to their results. We discounted the spatial standards by using percentage criteria, applied a factor that assured function evaluations always trumped spatial evaluations, overlaid those evaluations with a principle that said criminal trial capable court rooms must provide safe circulation and holding, and then overlaid that with a principle asking whether a court facility that failed the safety test could nonetheless be used for some other purpose.

"In applying the guidelines through a filter of percentage discounting and policy choices, we moved from describing the desirable to the acceptable.

"The Phase IV report is in several parts. It first lays out an objective description of our court facilities, their size and nature, and then describes their condition in relation to the filtered and discounted guidelines -- thereby answering the questions the Legislature put to the task force about the state of existing court facilities and the need for new or modified court facilities defined in terms of what is needed for satisfactory facilities in light of the discounted guidelines.

"The Phase IV report could have ended there and simply costed out the results of that global analysis. It did not. Instead we then looked at each of the 58 counties in light of their existing inventory and asked how much of it could be reused or modified to come as close as practical to the satisfactory level defined by our field study in light of actual conditions in the counties. This was a further discounting of our original guidelines. In short, what the task force did was: eschew the ideal, define the desirable, identify the satisfactory, and accept the achievable (some might say we accepted the tolerable). Only that last most practical result of our analysis was priced.

"As to new court facilities, Phase IV uses the results of our Phase III statistical projections to estimate the likely growth of judgeships and staff over a 20-year horizon, and describes/costs the facilities needed to house that growth. Here, we cost at the guideline or desirable level because of a very reasonable task force judgment that it doesn't make sense to build new facilities that replicate the problems of the old.

"In judging our Phase IV report, I believe we all should ask whether it accomplishes our goals. Does the report clearly state our judgments about the need for new or modified court facilities? Does it clearly state the assumptions and principles that underlie those judgments? Does it present a body of information suited to informing judgment even if one disagrees with our recommendations?

"I think there is a very good case that it does. We state the need for new and modified facilities in every county in very concrete terms. We make clear the methodology that got us to those answers -- guideline definition and discounting, followed by county by county application -- and we present a body of information suited to other decisions if that is our constituent's choice. One could, for example, accept the guidelines, but set the discounting percentage or functional evaluation factors differently, or make the judgment that criminal capable courtrooms need not have secure circulation

or holding and come up with different answers. But those answers, like ours, would be based on clear and identified criteria.

"Taking off my chairman's hat, I believe our work has been done well, and recommend the task force accept and approve the Phase IV report."

B) Mr. Smith reviewed the final draft of the Phase 4 report which had been sent to the task force members prior to the meeting. Mr. Smith noted that the numbers in the tables and the text have not been fully conformed yet but would be conformed and checked prior to issuance of the report. He also handed out an updated version of Table 4.1.

C) The task force members made the following comments regarding the report:

1) Judge Wick noted her concurrence with Justice Kremer's statement in his opening remarks that the report complies with the legislative mandate in that it clearly documents what was found.

2) Mr. Courtney asked whether all of the costs reported were in 1999 dollars and Mr. Smith replied that they were. Mr. Courtney noted that the costs are already two years out of date and suggested that the bottom line costs be updated to 2001 dollars. Supervisor Freeman noted that the estimates are a snapshot in time and that since the timeframe of the estimates are clearly identified the report was accurate as it stood. Justice Kremer noted the sense of the task force that any adjustment to the bottom line cost figures could be made in the final report.

3) Supervisor Smith noted that he thought the discussion of Evaluation Findings on page 1-6 regarding the percentage of functional court buildings was confusing and should be clarified. Mr. Janssen suggested reorganizing the discussion to explain that the physical and functional evaluations are made separately.

4) Ms. Campos asked whether consistent base years were used in the forecasting of population and caseload growth upon which the future need was based. Mr. Smith replied that some inconsistency existed since some data were based on calendar years and other data on fiscal years. He noted that the base years of the data are summarized in the Second Interim Report.

5) Judge Nail moved that the task force accept the report subject to a final edit by the Writing Working Group. The motion passed unanimously.

IV. REVIEW OF THE PHASE 5 REPORT (Final Draft) – Mr. Robert Lloyd

A) Mr. Lloyd reviewed the Phase 5 report draft that was sent to the task force prior to the meeting.

B) Task force members had the following comments regarding the report:

1) Regarding the cost model in Figure 3F on page 15, Mr. Abel raised the question as to whether the funding of current need over ten years, with a three-year ramp-up, and funding future need over 20 years, starting in year five, constituted policy recommendations of the task force. Mr. Janssen stated his opinion that these are modeling assumptions which should be left as they are but should be more clearly identified as modeling assumptions rather than as policy recommendations.

2) Justice Kremer noted that Judge Peterson had expressed concern to him earlier this week that the three-year transition period discussed on page 26 may be too short. Justice Kremer noted that in his view three years is sufficient and should be considered

the maximum length of the transition period. Mr. Lloyd added that the Legislative Analyst's Office recommends that the transition take place quickly.

3) Mr. De La Torre requested clarification of the seventh item under Maintaining the Flow of Projects During Transition on page 29 regarding whether counties would be required to finish the design or construction of a project in process. Mr. Janssen noted his understanding that only the phases committed to would need to be completed.

4) Mr. Janssen suggested that in the first principle of fiscal neutrality on page 29 that the phrase "at the time of transfer" be added at the end of the sentence. Mr. Abel noted his concurrence.

5) Mr. Janssen noted that in the second principle of fiscal neutrality on page 29 a statement that all non-Courthouse Construction Funds should revert to the counties' general funds after the debt which they service is paid off should be added.

6) Regarding Table 4D, Proposed Timeline for Transition, Mr. Courtney remarked that the listing the various activities implies that the task force expects that they would be funded. Judge Wick suggested adding a statement to the second activity listed that explicitly states that the initial transition activities be funded.

7) Judge Wick moved that the task force accept the Phase 5 report subject to final editing by the Writing Working Group. All voted in favor of the motion, with the exception of Mr. Klass who abstained.

V. REVIEW OF THE SECOND INTERIM REPORT (Final Draft) – Mr. Jay Smith

A) Mr. Smith reviewed the Second Interim Report draft that was sent to the task force prior to the meeting.

B) Task force members had the following comments regarding the report:

1) Mr. Janssen suggested that that in the discussion of in the third paragraph on page xi that the continuing contribution of the counties to court funding through MOE obligations to the state be mentioned.

2) Judge Peterson noted that on in the fourth paragraph on page xi that the reference to "All 58 local trial courts" be changed to "All local trial courts".

3) Mr. Janssen suggested that in the first paragraph on page xiii, which discusses facility guidelines, the second sentence be moved to the end of the paragraph.

4) Mr. Klass suggested that the first sentence of the second paragraph of the discussion under Forecast of Future Needs on page xiii be modified to read "To ensure that the forecasting models were consistent and statistically valid, a working group reviewed the methodology."

5) Mr. Janssen and Mr. Courtney suggested that the last sentence of the third paragraph of the discussion of inventory and evaluation on page xiv should be changed. Justice Kremer suggested that it be changed to "In addition, deferred maintenance, repair, or renovation was found to be necessary in a significant number of buildings."

6) Judge Peterson suggested deleting "nearly one-fourth" and "one fifth" from the fourth paragraph of the discussion of inventory and evaluation on page xiv.

7) Mr. Courtney suggested that the definitions of the maximum reuse option and the reduced reuse option could be improved by incorporating the expanded definitions from page 4-1 of the Phase 4 report.

8) Supervisor Smith recommended that the last paragraph on page xxi, which introduces the schedule for transition, be replaced by the language of page 38 of the Phase 5 report.

9) Supervisor Freeman moved that the task force accept the report subject to a final edit by the Writing Working Group. The motion passed unanimously.

VI. Task Force Meeting Schedule

A) Mr. Emerson presented and the task force accepted the following schedule for the comment review period and for preparation of the final report:

- 1) June 1 – End of public comment period.
- 2) July 1 – Staff completes summary of comments.
- 3) July 19 & 20 – Task Force meeting to consider public comments and to provide direction for the final report.
- 4) August 29 & 30 – Task Force meeting to review draft of final report. Task Force meetings are to be held in Santa Barbara and in Santa Rosa.
- 5) October 1 – Final report issued.

VII. PUBLIC COMMENT PERIOD

A) There were no public comments.

VIII. CLOSING REMARKS – Justice Daniel Kremer

A) Justice Kremer adjourned the meeting at 3:15 p.m.